HON'BLE SMT. JUSTICE T. MEENA KUMARI

&

HON'BLE SRI JUSTICE P. LAKSHMANA REDDY

WRIT PETITION NO :20546 OF 2005

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Dated 03-09-2005

Between:

Government of Andhra Pradesh, represented by its Secretary, Panchayat Raj Department, Secretariat Buildings, Hyderabad.

PETITIONER.

AND

K. Brahmaji Rao, son of K. Satyanarayana, Retired Executive Engineer, Panchayat Raj Department, resident of Visakhapatnam, Visakhapatnam District.

RESPONDENT

ORDER: (Per the Honourable Smt. Justice T.Meena Kumari)

This writ petition is filed by the writ petitioner aggrieved by the order in O.A. No. 2883 of 2000 passed on 05-04-2004 by the learned A.P. Administrative Tribunal, Hyderabad under which the O.A. was disposed of with some observations as mentioned therein.

The writ petitioner is the respondent and the respondent herein is the applicant before the Tribunal. The parties will be referred to as arrayed before the Tribunal.

Originally, the applicant filed an application before the Tribunal under section 19 of the Administrative Tribunals Act, 1985 seeking to call for the records pertaining to G.O. Rt. No.1716 Panchayat Raj and Rural Development (Estt. VI) Department, dated 13-10-1999 and set aside the same as illegal and void. The Tribunal having observed that it is unjust and unfair to draw the conclusion against the applicant as the prescribed procedure is not followed, set aside the punishment imposed against the respondent with a direction to fix his pensionary benefits ignoring the punishment imposed against him. Aggrieved by the same, the present writ petition has been filed by the respondent.

Heard the learned G.P. for Services II and the party in person and perused the entire material on record and the order impugned.

It is submitted by the learned G.P. for Services-II appearing on behalf of the respondent that in view of the fact that the enquiry officer has found the applicant guilty of the charge levelled against him, proportionate punishment has been imposed for recovery of the amount besides 10% cut in the pension. Therefore, the order of the tribunal is not legally sustainable and the same is liable to be set aside.

On the other hand, it is submitted by the applicant-party in person that the quentionaire as contemplated under rule 20 (4) of the Rules, has not been furnished to him and the report of the enquiry is not based on any material

evidence and apart from that, suggesting the imposition of punishment by the enquiry officer as well as conducting of the enquiry, is in clear violation of the principles of natural justice. The order of the tribunal is sustainable.

A perusal of the order impugned before the tribunal goes to show that the applicant is found guilty of the charge leveled against him. But, the recovery ordered in that connection for a sum of Rs.1,79,226/- is beyond the scope of the charge. Therefore, We feel it just and proper to modify the order of the tribunal to the effect that the imposition of punishment shall only be confined to 10% cut in the pension. Since there is no basis to arrive at an amount of Rs.1,79, 226/- to recover the same from the applicant and since ordering of such recovery is beyond the scope of the charge, the same is liable to be set aside. Accordingly, the order impugned in the O.A. is set aside in so far as the recovery of Rs.1,76,226/- from the applicant, is concerned.

At this stage, the applicant-the party in person has orally submitted before us that he is not keeping good health and he has to undergo heart operation but he has been postponing the same for want of money.

In view of the facts and circumstances of the case, in view of the retirement of the applicant and in view of the old age and health condition of the applicant, we deem it appropriate to direct the Department concerned to consider the payment of the terminal benefits after deducting 10% cut in the pension for a period of two years in lumpsum and pay the balance of terminal benefits including the pension and also after fixing the regular pension within a period of six weeks i.e., with a maximum period of eight weeks from today.

Subject to the above modification as indicated above, this writ petition is disposed of.

However, it is made clear that this order shall not be a precedent in future cases.

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Justice T.Meena Kumari

Date: 03-10-2005.

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Justice P.Lakshmana Reddy

Dvs/Gurc

HON'BLE SMT. JUSTICE T. MEENA KUMARI

&

HON'BLE SRI JUSTICE P. LAKSHMANA REDDY

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WRIT PETITION NO : 20546 OF 2005

(Judgment delivered by the Honourable

Smt. Justice T.Meena Kumari)

Dated 03-10-2005